

REMARKS

1. Claims 1-22 are pending in the Application. The Examiner has rejected Claims 1-5, 7-16, and 8-22. The Examiner has found allowable subject matter in Claims 6 and 17, provided they are rewritten to include all the limitations of the base claim and intervening claims from which they depend. Claims 1 and 12 were amended in the response filed on August 18, 2002, to clarify the claim term "multi-axis." The Examiner has refused to enter the amendment on the grounds that a new search would be required. Reconsideration is requested.

2. The principal reason for not allowing a patent on the claimed subject matter is a rejection of claims under 35 U.S.C. § 102(b) over the Richter reference, U.S. Pat. No. 5,913,555. The crux of the matter is whether the reference discloses all the limitations of the inventions claimed in the claims of the application, and, very importantly, whether the patentee or Applicant is allowed to be his or her own lexicographer. So long as the meaning of an expression is made reasonably clear and its use is consistent within a patent disclosure, an inventor is permitted to define the terms of his claims; the place to do so is in the specification of the inventor's application, and the time to do so is prior to that application acquiring its own independent life as a technical disclosure through its issuance as a United States patent. *Lear Siegler, Inc. v. Aeroquip Corp.*, 733 F.2d 881, 889, 221 USPQ 1025, 1031 (Fed. Cir. 1984) (emphasis added).

3. The specification defines a "multi-axis" measuring machine as one "having linear axes or rotary axes of motion." Specification, p. 3, lines 6-7. The specification also states that the "measuring device may be a multi-axis coordinate measuring machine 40, having a base 42 and at least one linear axis 44, and preferably having at least one rotary axis 46." Specification, p. 5, lines 10-12. In addition, common meanings of "multi" include "more than one." Merriam-Webster's Collegiate Dictionary, 10th ed. at 764. Thus, an axis was defined as an axis of motion, and the term "multi-axis" means more than one axis. Therefore, a "multi-axis digital measuring device" is a measuring device having more than one axis of motion. Applicants request reconsideration of the application in light of this rationale.

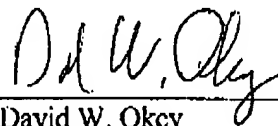
4. The primary reference, U.S. Pat. No. 5,913,555 to Hermann Richter et al. ("Richter"), discloses a digital camera, not a multi-axis measuring device. A camera cannot be "multi-axis,"

since at most a camera would include an ability to focus, i.e., to move the lens in or out, thus yielding a single "axis" of motion. A camera with a single axis of motion cannot be a "multi-axis digital measuring device." Applicants submit that whether the Amendment filed on August 18, 2003, is entered or not, Claims 1 and 12 claim "a multi-axis digital measuring device" that is not anticipated by the Richter reference, since a camera with a single axis does not anticipate a "multi-axis digital measuring device."

5. Applicants continue to object to the finality of the Office Action mailed on June 18, 2003. The final rejection was the first Office Action in response to a Request for Continued Examination (RCE) under 37 C.F.R. 1.114. The RCE included an amendment to Claims 11 and 22, and thus all claims in the RCE were not drawn to the same invention claimed in the application prior to submission of the RCE. Accordingly, the finality is improper and should be withdrawn.

6. Applicants submit that the Claims are in form for allowance, and respectfully request the Examiner to allow Claims 1-22. If the Examiner does not believe that the claims are in form for allowance and that a new search is required, the Examiner is requested to withdraw the finality of the present Office Action.

Respectfully submitted,

 17 Sept 2003

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